

September 27, 2005

Dear Representative Rocca and Committee members:

My name is Cheryl Lynch. My husband and I own Lake Michigan Realty in New Buffalo. Mike is our company's second-generation Broker. We are located in a resort market on the State line, just across Lake Michigan from Chicago.

We are members of the Michigan Association of REALTORS, but not by our free choice. In order to obtain business access to our area's only Multiple Listing Service we are forced to purchase REALTOR Memberships that we do not desire.

I'm here today to oppose the REALTOR Association's attempt to also force consumers into purchasing services that they do not need or desire. This regulatory legislation proposed by that Association, is not consumer-protective, but protects instead, the monopoly position that the Association would like legislators to assist them in maintaining. The subterfuge in this, the speaking about it as "raising the bar of professionalism," is not going to go unrealized by consumers, should these bills pass. My husband and I wish to distance our firm from any animosity toward us, or distrust of us caused by our affiliation with the REALTOR organization.

On behalf of consumers then, plus my fellow real estate professionals who stand to be harmed by passage of these bills, I ask that that this Committee reject this Agency Responsibility Act because it is completely unnecessary.

There is a key piece of information that hasn't been disseminated for the consumer's benefit in understanding what is being addressed here. In fact, I'm not aware that consumers have even been invited to learn about this potential change in the marketplace.

These bills do not merely correct a flaw in license law to accommodate the new fee-for-service business models; and there is nothing "minimum" about the so-called minimum services required in this legislation. The real estate practitioner would be mandated to perform all of the fundamental services that take a transaction from beginning to end. Yet, the REALTOR Association claims that there are no restrictions on the design of a broker's business model or fee structure because of mandated "exclusive agency" requirements. But here's the caveat ~ only "exclusive agency" listings qualify to be included in a REALTOR Association-run MLS. Since the Legislature can't dictate MLS rules, and since the MLS where I live will only admit REALTOR-member brokerages, consumers in my resort area would be locked into hiring ONLY a

full-service REALTOR in order to get adequate exposure in our unique locale. Thus, the Michigan Legislature would be guilty of setting up conditions for the REALTOR Association to maintain a monopoly in such non-competitive marketplace.

Will consumers consider that collusion? Will consumers consider it just a coincidence that this hearing is taking place on the first day of the annual convention of the Michigan Association of Realtors, over at the Soaring Eagle Indian Gambling Casino. I guess all of you folks must be gamblers.

Will consumers consider this scheme also price-fixing? It would certainly contribute to the COST-RIGGING of brokerages, or to at least cost-stabilizing. Either could be extrapolated into tacit price-fixing, and that is an anti-trust violation into which you legislators could be drawn. Even if you escape that, consumers will eventually become aware of your attempt to limit their choices and substantially raise their costs to sell or purchase a property, by artificially constricting the marketplace for no good reason.

Whether REALTORS accept it or not, the MLS has evolved or is evolving into being a public utility. Property sellers, who themselves own the information about their property, can now communicate with buyers directly via Internet service providers, which has necessitated the evolution of the services desired of real estate professionals. This is a perfectly natural process that every industry has experienced. In our industry, which utilizes a lot of paperwork, these evolving relationships require ONLY newly formatted contracts of disclosure, clarifying to the consumer that he only gets what he pays for. I think consumers can be trusted to fully grasp that simple concept, and even figure out that if at some point in the transaction they require more services than originally purchased, all they need to do is contract for more.

What the REALTOR Association actually fears is that Internet-based brokerages will offer an efficient lead-generation service, particularly attractive to independent real estate practitioners, and therefore the REALTOR branding and membership base, financially beneficial to key franchise players, would be watered down.

My husband and I welcome innovation in our industry, and we would pass the cost savings achieved from operating more efficiently along to consumers, if you will allow the continuation of a free market so that we may do so. That is what the Dept. of Justice considers appropriate also. Concurring with the DOJ are the FTC, the American Antitrust Institute and the American Enterprise Institute-Brookings Joint Center for Regulatory Studies. My husband, Mike, will relay the advice that these agencies wish to offer you.

*Cheryl Lynch, Lake Michigan Realty, 269-469-4663*